

REMARKS

Claims 1, 3-37 and 44-54 were pending in this application. No claims are canceled and no new claims are added. Thus, after entry of this amendment, **claims 1, 3-37 and 44-54 will still be pending.**

Claim 18 is amended to replace “method of immunizing” with “method of eliciting an immune response.” Support for this amendment can be found, for example, at page 32, lines 5-8; page 33, lines 14-24; Example 11 (page 53, line 10 to page 56, lines 17); and page 75, line 12 to page 76, line 12. No new matter has been introduced by this amendment. Applicant requests entry of this amendment as it places the application in condition for allowance.

EXAMINER INTERVIEW

Applicant thanks Examiner Parkin for the courtesy of a telephone interview with Applicant’s representative, Jodi L. Connolly, on March 17, 2009. Applicant’s representative requested that the finality of the Office action be removed since the rejection raised in the Office action is a new rejection against previously unexamined claims, and Applicant had not yet had the opportunity to respond to the rejection. Examiner Parkin indicated that he believed the finality of the Office action was proper.

The enablement rejection also was discussed during the interview. Examiner Parkin indicated that amendment of the rejoined method claims to recite “method of inducing an immune response” rather than “method of immunizing” would be sufficient to overcome the rejection. Examiner Parkin further indicated that he would consider such an amendment in a response after final.

ALLOWED CLAIMS AND REJOINDER

Applicant thanks the Examiner for indicating that claims 1, 3-17, 28, 30, 32, 34, 36 and 44-54 are allowed. The Office action indicates claims 18-27, 29, 31, 33, 35 and 37 have been rejoined and examined for patentability. Following entry of this amendment, Applicant believes claims 18-27, 29, 31, 33, 35 and 37 also will be in condition for allowance.

REJECTION UNDER 35 U.S.C. §112, FIRST PARAGRAPH

Claims 18-27, 29, 31, 33, 35 and 37 are rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking enablement. The Office alleges that the specification does not provide enablement for a method of immunization, which is interpreted as protecting a human against flavivirus infection.

Although not in agreement with the Office's position, and solely to advance prosecution of this application, claim 18 is amended herein to recite "a method of eliciting an immune response." The remainder of the rejected claims depend directly or indirectly from claim 18, and therefore incorporate all limitations of claim 18. During the telephone interview of March 17, 2009, the examiner indicated this amendment would be sufficient to overcome the rejection. Therefore, Applicant requests withdrawal of this rejection under 35 U.S.C. §112, first paragraph.

CONCLUDING STATEMENT

It is respectfully submitted that the present claims are in a condition for allowance. Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned so that further examination of this application can be expedited.

Respectfully submitted,

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